# Special Waste Determination
# Former Fort Ord, Monterey County, CA

The Department of Toxic Substances Control (DTSC) is proposing to approve an application from the Monterey Regional Waste Management District (MRWMD) on behalf of the Fort Ord Reuse Authority (FORA) to classify and manage 573 World War II era wooden buildings located at former Fort Ord, Monterey County, California, as "special waste" pursuant to sections 66261.122 and 66261.124 of the California Code of Regulations, title 22, division 4.5 (22 CCR). Special waste is eligible for alternative disposal options pursuant to section 66261.126, 22 CCR. Although not required by law, DTSC is seeking public comment on approval of the application. The comment period will extend for two weeks from the date of this posting. DTSC will evaluate any comments received in making its final determination. DTSC will not respond to individual comments separately. Mail or e-mail comments to the addresses below:

James Frampton
Regulatory and Program Development Division
Department of Toxic Substances Control
P. O. Box 806
Sacramento, CA 95812-0806

jframpto@dtsc.ca.gov

## Regulatory Background

To be classified as a special waste, a hazardous waste must meet the criteria of a special waste pursuant to section 66261.122, 22 CCR. A special waste cannot be a RCRA hazardous waste. Further, a non-RCRA hazardous waste is eligible to be a special waste if the only reason it is hazardous waste is because it contains an inorganic toxic substance listed in section 66261.24(a)(2)(A), 22 CCR, at concentrations exceeding its Soluble Threshold Limit Concentration (STLC) or its Total Threshold Limit Concentration (TTLC). However, the soluble and extractable concentration when converted to mg/Kg of waste must not exceed its TTLC, and the total concentration must not exceed its TTLC for extremely hazardous substances.

Pursuant to section 66261.126, 22 CCR, a special waste may be disposed in a landfill facility that is not a hazardous waste (Class I) landfill provided:

- the owner or operator of the facility has been granted a disposal variance by DTSC pursuant to Health and Safety Code section 25143 and section 66260.210, 22 CCR, that allows disposal of the special waste at the facility, and
- the facility is operated under waste discharge requirements (WDRs) issued by the Regional Water Quality Control Board that allows disposal of the special waste.

Special wastes disposed of pursuant to a variance are not be subject to Health and Safety Code section 25157.8, which would otherwise restrict disposal of waste containing greater than 350 mg/Kg of lead to a Class I landfill.

## Chronology

On December 6, 2002, the MRWMD, on behalf of the FORA, submitted an application to classify and manage as special waste 1,600 World War II era wooden buildings less concrete, salvage (e.g., copper piping and plumbing fixtures), and hazardous materials other then surfaces painted with lead-based paint (e.g., fluorescent lamps and asbestos containing tile). Lead in lead-based paint (LBP) was the only substance of concern. The analytical methods proposed were the federal Toxicity Characteristics Leaching Procedure (TCLP), the California Waste Extraction Test (WET) and EPA Methods 3050B and 7420 for digestion and analysis for "total" lead. The application was supported by analytical data from an earlier project (12th Street Realignment Project) in which FORA demolished and removed 26 wooden buildings.

Six building types were identified in the application:

- Type 1A – Two story barracks – enlisted men
- Type 1B – Two story barracks - officers
- Type 2 – Clinic and Mess Hall buildings
- Type 3 – Day Room buildings
- Type 4 – Theater buildings
- Type 5 – Motor Pool buildings

The applicant provided information on the proportions of building components by building type. All buildings types except the single Type 4 building were proposed to be included in the waste stream.

In a letter dated January 31, 2003, DTSC notified MRWMD that its application for a special waste determination was "inadequate or incomplete" because MRWMD was relying upon analytical data from a different set of buildings than the set of buildings subject to the application. DTSC required that the buildings subject to the special waste application actually be representatively sampled. DTSC also requested MRWMD to supply the following additional information:

- The name and address of the generator(s).
- The location and type of each building subject to the special waste determination.
- A description of how representative samples of buildings by building type and building components would be selected and methods of sampling.
- A description of procedures for preparing samples (e.g., grinding, milling, and homogenization)
- The statistical protocol that would be used to analyze/summarize the sample results

DTSC further recommended that the applicant submit a sampling plan to incorporate the above information.

In a letter dated February 25, 2003, MRWMD responded to DTSC's notification by providing supplementary information. The waste generator was identified as FORA. (Note: Although the

generator is required to determine whether his/her waste is a hazardous waste, any "person" may apply for a special waste determination.) A total of 573 buildings were identified by building number and location for the special waste determination. (This was a reduction from the 1600 buildings originally proposed.) MRWMD also submitted a more detailed description of how building components would be sampled and how samples would be prepared in the laboratory for analysis.

On April 9, 2003, DTSC responded to MRWMD's letter of February 25. DTSC concluded that there was no evidence that sample data from the 12th Street Realignment Project were representative of the 573 buildings subject to the application. Therefore, DTSC requested random sampling of these 573 buildings and their components. Because of the high uncertainty entailed with post-demolition sampling, DTSC accepted pre-demolition sampling of building components. DTSC also provided more explicit recommendations regarding sampling strategies and techniques and data interpretation. Because of the heterogeneity of the waste stream, DTSC recommended that FORA employ a stratified random sampling strategy. Such a strategy is described in Chapter Nine of "Test Methods for Evaluating Solid Waste" (U. S. EPA, SW-846), and is incorporated by reference in section 66261.20 of 22 CCR. Subsequently, DTSC agreed that for each building type, three components believed to have the highest mass of lead would be selected for sampled and that at least three replicate samples would be obtained from each component. Weight fractions for each component would be obtained from an earlier study by FORA. DTSC provided a formula for estimating the 90 percent upper confidence limit of the overall mean concentration of lead.

On August 26, 2003, MRWMD submitted a revised application to approve the classification of 573 buildings as special waste. The revised application included requested additional information in a report prepared by Forensic Analytical titled "Supplemental Waste Characterization Testing Report, Former Fort Ord, Marina, California" and dated August 21, 2003. The revised application and information provided in the supplementary waste characterization report supported the conclusion that the 573 buildings, when taken together, meet the criteria for a special waste. Subsequently, DTSC prepared a draft approval of the application to classify and manage the 573 demolished WWII era wooden buildings as "special waste." DTSC is now accepting public comment on its proposed approval.

**CEQA Compliance:**

CEQA analysis is not required for a special waste classification, because the approval is not a discretionary decision. Any subsequent application for a disposal variance will be subject to CEQA review.

Type 1A – Two story barracks – enlisted men

Type 2 – Clinic and Mess Hall buildings

Type 3 – Day Room buildings